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Attorneys for VANGUARD LOGISTICS SERVICES (USA), INC.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GARY BEAUMONT,

Plaintiff,

-V.-

VANGUARD LOGISTICS SERVICES (USA), INC.,
and JOHN DOES 1-10 (Fictitious Names)
and ABC COMPANIES 1-10 Fictitious Names)

Defendants.

1:22-cv-06235 (MKV)(JW)

**DECLARATION OF
CHARLES E. SCHMIDT
IN RESPONSE TO
ORDER TO SHOW CAUSE**

Charles E. Schmidt, an attorney admitted to practice before bar of this Court, declares as follows.

1. I am the attorney of record for the Defendant herein. I make this declaration in response to the Order to Show Cause entered by the Court today, December 4, at 2:21 p.m. EST. ECF Doc. 57.

2. On September 27, 2023, Judge Vyskocil entered an Order on Defendant's motion for partial summary judgment that concluded: "The parties shall appear for a Post Discovery Conference on October 26, 2023 at 10:00 a.m. A joint status letter and any pre-motion submissions are due one week before the conference." ECF Doc. 50.

3. On October 4, 2023, Judge Vyskocil entered an Order that “the Status Conference scheduled for October 26, 2023 at 10:00 AM is ADJOURNED to December 6, 2023 at 11:00 AM.” ECF Doc. 53.

4. On October 15, 2023, the Clerk of the Court notified the parties via ECF of the reassignment of this case to Judge Ho, and that Judge Vyskocil was no longer assigned to the case. No ECF Document was attached; a copy of the notice is provided herewith.

5. To date, Defendant received no notice from the Clerk of the Court that this action was reassigned back to Judge Vyskocil. Since the time of the Clerk’s October 15 Notice of Reassignment, Defendant has operated on the basis that since the case was transferred to Judge Ho’s docket, Judge Ho would set his own schedule for further proceedings and the parties would not be appearing before Judge Vyskocil for further proceedings.

6. Following the October 15 Notice of Reassignment, Defendant filed its Reply Memorandum in Support of its pending motion for reconsideration with the civil action number then showing Judge Ho’s initials, “DEH.”

7. Had the Defendant received any further Notice from the Clerk of the Court that this action had been reassigned back to Judge Vyskocil, we would, at a minimum, have communicated with Chambers to determine if the conference previously scheduled for December 6 had been reinstated, and taken steps to comply with Judge Vyskocil’s joint status reporting requirements.

8. As until today, the Defendant was unaware that Judge Vyskocil would again preside over this case, Defendant’s counsel now has a calendar conflict on December 6 at 11:00 a.m. and respectfully requests that the parties be given until 5:00 p.m. on that date to file their joint

status report and that the conference itself be adjourned to a date thereafter that is convenient to the Court.

I declare under penalty of perjury that the foregoing is true and correct. Executed on December __4__, 2023.



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To: Kevin K. Tung Esq.
Attorney for Plaintiff
Via ECF